



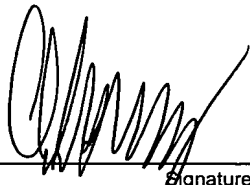
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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 060258-0277884	
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on _____</p> <p>Signature _____</p> <p>Typed or printed name _____</p>		Application Number 09/800,300	Filed May 17, 2001
		First Named Inventor LINDEMANN	
		Art Unit 2685	Examiner Jackson, Blane J.
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p>			
<p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number 41844</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p>		<p> Signature Christine H. McCarthy Typed or printed name</p> <p>703-770-7743 Telephone number</p> <p>November 18, 2005 Date</p>	
<p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			
<p><input type="checkbox"/> *Total of _____ forms are submitted.</p>			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Attorney Docket No. 258-0277884  
Client Reference: 2980504US/VK/HER

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of:

Confirmation Number: 6583

LINDEMANN

Application No.: 09/806,300

Group Art Unit: 2685

Filed: May 17, 2001

Examiner: Jackson, Blane J.

Title: REPORTING CREDIT/CHARGING INFORMATION TO A MOBILE SUBSCRIBER

**ATTACHMENT SHEETS TO PRE-APPEAL BRIEF CONFERENCE REQUEST**

**Mail Stop AF**

Commissioner for Patents

P. O. Box 1450

Alexandria, VA 22313-1450

Sir:

Appellant hereby requests that a panel of examiners formally review the legal and factual basis of the rejections in the above-identified application prior to the filing of an appeal brief. Appellant asserts that the outstanding rejections (now on appeal by virtue of the concurrently filed Notice of Appeal) are clearly improper based both upon errors in facts and the omission of essential elements required to establish a *prima facie* rejection (i.e., the prior art references fail to disclose, teach or suggest all the recited claim features).

**APPEALED REJECTION**

Appellant is appealing the rejection of claims 1-4 and 6-14 under 35 U.S.C. 103(a) as being obvious from Boltz (U.S. 6,131,024) in view of Hentila et al. (U.S. 6,044,259; hereafter "Hentila"), and rejected claim 10 under 35 U.S.C. 103(a) as being obvious over from Boltz, Hentila and Laybourn et al. (U.S. 6,480,710; hereafter "Laybourn").

Appellant notes, the Office Action appears to include a typographical error regarding claim 10; specifically, it is unclear whether the Office Action meant to reject claim 10 twice.

**ARGUMENTS FOR TRAVERSAL**

The appealed rejections are improper because Appellant traverses the prior art rejections because the Office Action has not established a *prima facie* case of obviousness because no combination of the cited prior art references teaches or suggests all the features recited in the rejected claims.

To establish a *prima facie* case of obviousness, three basic criteria must be met, the last of which being that the prior art references, when combined, must teach or suggest all the claim limitations. However, the combined teachings of the cited prior art fail to disclose, teach or suggest the claimed method or arrangement that detect a termination of the call, and in response to that detection, send credit/charging information maintained information related to the subscriber of the mobile station in a network node to a mobile station as a connectionless message.

The Office Action has admitted that Boltz fails to disclose this feature; however the Office Action has relied upon Hentila as alleging teaching this feature. Specifically, the Office Action has asserted that Hentila “Hentila teaches a wireless telephone system with an intelligent node to store subscriber instructions to control and track call usage, (column 6, lines 46-67) and that Hentila discloses the call can be monitored in respect to several conditions based on subscriber instructions, (column 7, lines 33-37).

However, The Office Action has mischaracterized the teachings of Hentila. The assertions amount to nothing more than generalizations regarding the teaching of Hentila, which actually teaches that the subscriber is notified in three situations:

1. the call will be disconnected in a moment (as a result of reaching an upper limit for calls or call charges, col. 7 line 31);
2. the upper limit for charges has been reached (col. 7 line 32); and
3. the subscriber attempts to call a certain number more often than allowed (col. 7 lines 34 - 37).

Thus, a proper interpretation of the teachings of Hentila would have indicated that the common feature of all three scenarios is that they are all error situations (a predefined upper limit has been reached), the subscriber cannot make a call and must be notified.

Thus, a fundamental difference between the claimed invention and the hypothetical combination of Boltz/Hentila is when credit/charging information is sent, i.e., in the claimed invention it is sent in response to a detection of a call termination whereas the combined teachings of the prior art would send information in response to detecting an error situation.

Another fundamental difference between the claimed invention and the hypothetical combination of Boltz/Hentila is what is actually sent. Specifically, the claimed invention sends the credit/charging information to the mobile station as a connectionless message in response to the detection of the call termination, whereas the hypothetical combination of Boltz/Hentila would merely send a notification (call will be disconnected in a moment, col. 7 line 31; upper limit for charges has been reached (col. 7 line 32); or subscriber attempts to

call a certain number more often than allowed (col. 7 lines 34 - 37)). None of the examples of subscriber notification disclosed by Hentilä are “credit/charging information” as clearly required by the rejected claims

Although the Office Action asserted that Hentila also teaches that the SCP checks the subscriber database to see the current balance of the subscriber and notifies the subscriber by voice or display message on the display of the subscriber station during call set-up, column 8, lines 11-22, Appellant submits that such a teaching actually teaches away from the claimed invention because the claimed invention teaches in response to the detection of the call termination. Hentilä, in contrast, discloses notifying the subscriber during call set-up. Thus a straightforward combination of Boltz and Hentilä differs from the present invention in yet another respect.

Yet further, with regards to the claim element “connectionless message” which the Office Action allegedly found in Boltz (col. 5 lines 27 - 36), Boltz also fails to send the credit/charging information to the mobile station as a connectionless message. Instead, Bolts teaches that the mobile station sends a USSD or MMI message for retrieving the current usage amount and defined usage limit (=credit/charging information).

The Office Action asserted that Boltz disclosed sending credit/charging information to the mobile station as a connectionless message at column 5, lines 27 – 36. However, the Office Action’s assertion is incorrect. In fact, that passage of Boltz (excerpted below) reads as follows:

“Additionally, ... a mobile subscriber will be able to request from the system the current accumulated usage and the defined usage limits. Using a USSD or other MMI message, as discussed above, sent from the Mobile Station 300 transparently to the MSC 330, the current usage amount and defined usage limit can be retrieved from the VLR 340 and returned to the MS 300 where the information can be displayed or indicated via system message to the user.”  
(emphasis added)

Thus, Boltz actually teaches that a mobile subscriber must request the credit/charging information. Thus, the teachings of Boltz are more relevant to the prior art acknowledged in Appellant’s own background section, with the exception that, in Boltz, the subscriber does not call an IVR unit but requests the credit/charging information via a USSD or MMI message.

As a result, Boltz fails to disclose, teach or suggest sending credit/charging information to the mobile station as a connectionless message; rather, in Boltz, the mobile subscriber may request such information by means of a connectionless message. Such a set

up is contrary to the claimed invention, which eliminates the requirement that a subscriber request the credit/charging information. Boltz clearly fails to disclose, teach or suggest sending credit/charging information in response to the detection of a call termination.

Laybourn fails to remedy the combined teachings of Boltz and Hentila because Laybourn merely teaches specific details regarding Short Message Service Center operation.

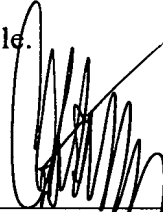
Accordingly, the combined teachings of the cited prior art references fail to provide all the features recited in the rejected claims, including the sending of credit/charging information in response to a detection of a call termination. Therefore, a *prima facie* case of obviousness has not been met for either prior art rejection. Thus, claims 1-14 are patentable.

#### CONCLUSION

Therefore, it is respectfully requested that the panel return a decision concurring with Appellant's position and eliminating the need to file an appeal brief because there are clear legal and/or factual deficiencies in the appealed rejections. Specifically, the combined teachings of the cited prior art fail to disclose, teach or suggest all the features recited in the rejected claims. Therefore, a *prima facie* case of obviousness has not been met for either prior art rejection. Thus, claims 1-14 are patentable.

Date: November 18, 2005

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